



## **Texas Department of Insurance**

### **Division of Workers' Compensation**

Medical Fee Dispute Resolution, MS-48

7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1645

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## **MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION**

### **GENERAL INFORMATION**

#### **Requestor Name and Address**

INJURY ONE OF WICHITA FALLS  
5931 DESCO DRIVE  
DALLAS TEXAS 75225

#### **Respondent Name**

CHUBB INDEMNITY CO

#### **Carrier's Austin Representative**

Box Number 17

#### **MFDR Tracking Number**

M4-10-4489-01

#### **MFDR Date Received**

June 24, 2010

### **REQUESTOR'S POSITION SUMMARY**

**Requestor's Position Summary:** "The insurance carrier has denied payment per EOB stating the procedures billed are mutually exclusive. On these dates of service a physical therapy session was completed. Preauthorization was obtained prior to this patient's appointment. However, they denied payment after reconsideration as completed. Due to this they are now submitted for your review and resolution."

**Amount in Dispute:** \$235.77

### **RESPONDENT'S POSITION SUMMARY**

**Respondent's Position Summary:** "The HCP also indicates in both their MDR request and their reconsideration that these services were preauthorized under #711104861-1. This statement is not entirely correct. CPT code 97140 was not included as a part of the service/CPT codes requested or approved under #711104861-1. Rule 134.600 requires providers to specify services to be performed when preauthorization is being requested. As we are all aware, Preauthorization (under rule 134.600) addresses medical necessity. It does not address payment and the letter that the HCP received from preauthorization department indicating the service was authorized, clearly also indicates that the preauthorization is NOT a guarantee of payment. The fact that the service was preauthorized is a non-issue as it related to the denial of the service for CCI edits reasons."

**Response Submitted by:** Corvel Corporation – Dallas, Texas

### **SUMMARY OF FINDINGS**

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
November 13, 2009	97530-GP/59	\$83.38	\$ 0.00
November 13, 2009	97140-GP/59	\$73.80	\$0.00
November 20, 2009	97530-GP/59	\$41.69	\$0.00
November 20, 2009	97140-GP/59	\$36.90	\$0.00
TOTAL		\$235.77	\$0.00

## ***FINDINGS AND DECISION***

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

### **Background**

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving a medical fee dispute.
2. 28 Texas Administrative Code §134.203 sets out the fee guidelines for professional medical services.
3. The services in dispute were reduced/denied by the respondent with the following reason codes:

Explanation of benefits

- 197 – Payment adjusted for absence of precert/preauth
- B15 – Procedure/service is not paid separately
- R88 – CCI; mutually exclusive procedures
- 193 – Original payment correctly processed 1<sup>st</sup> time
- R84 – CCI; Most extensive procedures
- Reason: CCI; mutually exclusive procedure, procedure/service is not paid
- Reason: Payment adjusted for absence of,
- Reason: CCI; most extensive procedures procedure/service is not paid

### **Issues**

1. Did the requestor obtain preauthorization for disputed CPT code 97140-GP/59?
2. Did the requestor bill in conflict with the NCCI edits?
3. Did the requestor's documentation meet the documentation requirements for appending modifier -59?
4. Is the requestor entitled to reimbursement?

### **Findings**

1. 28 Texas Administrative Code §134.600 states, "(p) Non-emergency health care requiring preauthorization includes: (5) physical and occupational therapy services, which includes those services listed in the Healthcare Common Procedure Coding System (HCPCS) at the following levels: (A) Level I code range for Physical Medicine and Rehabilitation, but limited to: (i) Modalities, both supervised and constant attendance; (ii) Therapeutic procedures, excluding work hardening and work conditioning."

Review of the preauthorization letter date November 13, 2009 issued by Corvel documents that preauthorization was obtained for CPT codes G0283, 97035, 97110, 97530 and 97535, 3 times per week with a start date of November 9, 2009 and an end date of December 25, 2009.

28 Texas Administrative Code §134.600 states in pertinent part, "(f) The requestor or injured employee shall request and obtain preauthorization from the insurance carrier prior to providing or receiving health care listed in subsection (p) of this section. Concurrent review shall be requested prior to the conclusion of the specific number of treatments or period of time preauthorized and approval must be obtained prior to extending the health care listed in subsection (q) of this section. The request for preauthorization or concurrent review shall be sent to the insurance carrier by telephone, facsimile, or electronic transmission and, include the... (2) specific health care listed in subsection (p) or (q) of this section..."

The requestor disputes CPT code 97140 which is not listed in the preauthorization letter submitted for review with the DWC060 request. Preauthorization was required and not obtained, as a result, reimbursement cannot be recommended for CPT code 97140-GP/59 rendered on November 13, 2009 and November 20, 2009.

2. Per 28 Texas Administrative Code §134.203 "(b) For coding, billing, reporting, and reimbursement of professional medical services, Texas workers' compensation system participants shall apply the following: (1) Medicare payment policies, including its coding; billing; correct coding initiatives (CCI) edits; modifiers; bonus payments for health professional shortage areas (HPSAs) and physician scarcity areas (PSAs); and other payment policies in effect on the date a service is provided with any additions or exceptions in the rules."

In order to determine proper reimbursement, the division ran NCCI edits for CPT codes; 97530-GP/59, 97110-GP/59, 97140-GP/59 and 97535-GP rendered on November 20, 2009. The following NCCI edits were identified.

Per CCI Guidelines, Procedure Code 97530 [THERAPEUT ACTIVITY DIRECT PT CONTACT EACH 15 MIN] has a CCI conflict with Procedure Code 97140 [MANUAL THERAPY TQS 1/> REGIONS EACH 15 MINUTES]. Review documentation to determine if a modifier is appropriate.

Per CCI Guidelines, Procedure Code 97535 [SELF-CARE/HOME MGMT TRAINING EACH 15 MINUTES] has a CCI conflict with Procedure Code 97530 [THERAPEUT ACTIVITY DIRECT PT CONTACT EACH 15 MIN]/]. Review documentation to determine if a modifier is appropriate.

3. The requestor appended modifier -59 which is defined by CMS Medicare as "CPT Manual defines modifier -59 as follows: Modifier -59: "Distinct Procedural Service: Under certain circumstances, the physician may need to indicate that a procedure or service was distinct or independent from other services performed on the same day. Modifier 59 is used to identify procedures/services that are not normally reported together, but are appropriate under the circumstances. This may represent a different session or patient encounter, different procedure or surgery, different site or organ system, separate incision/excision, separate lesion, or separate injury (or area of injury in extensive injuries)not ordinarily encountered or performed on the same day by the same physician. However, when another already established modifier is appropriate, it should be used rather than modifier 59. Only if no more descriptive modifier is available, and the use of modifier 59 best explains the circumstances, should modifier 59 be used."

Review of the documentation submitted with the DWC060 does not meet the documentation requirements for appending the -59 modifier to the disputed CPT codes 97140 and 97530.

4. Review of the submitted documentation finds that the requestor is not entitled to reimbursement for CPT codes 97140-GP/50 and 97530-GP/50.

### **Conclusion**

For the reasons stated above, the Division finds that the requestor has not established that additional reimbursement is due. As a result, the amount ordered is \$0.00.

### ***ORDER***

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code §413.031, the Division has determined that the requestor is entitled to \$0.00 reimbursement for the disputed services.

### **Authorized Signature**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Medical Fee Dispute Resolution Officer

\_\_\_\_\_  
October 4, 2013  
Date

### ***YOUR RIGHT TO APPEAL***

Either party to this medical fee dispute may appeal this decision by requesting a contested case hearing. A completed **Request for a Medical Contested Case Hearing** (form **DWC045A**) must be received by the DWC Chief Clerk of Proceedings within **twenty** days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. The party seeking review of the MDR decision shall deliver a copy of the request for a hearing to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §148.3(c), including a **certificate of service demonstrating that the request has been sent to the other party.**

**Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.**